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101ST CONGRESS
2d Session

SENATE

REPORT
101-426

SOCIAL SECURITY PRESERVATION ACT

REPORT

OF THE

COMMITTEE ON THE BUDGET
UNITED STATES SENATE

TO ACCOMPANY

S. 2999

together with

ADDITIONAL VIEWS

To exclude the Social Security Trust Funds from the deficit calculation

AUGUST 4 (legislative day, JULY 10), 1990.—Ordered to be printed

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SOCIAL SECURITY PRESERVATION ACT

AUGUST 4 (legislative day, JULY 10), 1990.—Ordered to be printed

Mr. SASSER, from the Committee on the Budget, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 2999]

The Committee on the Budget submits the following report, accompanying S. 2999, an original bill to exclude the Social Security Trust Funds from the deficit calculation.

I. SUMMARY OF THE LEGISLATION

On July 18, 1990, on the motion of Senator Ernest F. Hollings, by a vote of 20 to 1, the Committee on the Budget ordered reported an original bill, called the "Social Security Preservation Act," that removes Social Security from the calculation of the deficit under Gramm-Rudman-Hollings.[1]

The Social Security Preservation Act amends the definition of the term "deficit" by striking the portion of the definition that includes the receipts and disbursements of Social Security trust funds in the calculations of the deficit. The Act then makes conforming changes to the expiration provisions of Gramm-Rudman-Hollings and to the budgetary treatment section of the Social Security Act.

[1] The Balanced Budget and Emergency Deficit Control Act of 1985, Pub. L. No. 99-177, tit. II, 99 Stat. 1037, 1038 (Dec. 12, 1985), *amended by* the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, Pub. L. No. 100-119, tit. I-II, 101 Stat. 754 (Sept. 29, 1987), *and further amended* (codified as amended at 2 U.S.C. §§ 901-922 (1988)) [hereinafter Gramm-Rudman-Hollings].

Finally, the Act provides that the changes it makes will apply to fiscal year 1991 and thereafter.

II. Need for Legislation [2]

The Social Security Preservation Act arises from a widespread realization that the surpluses that the Government accumulates in Social Security trust funds mask the true size of the deficit in the operating budget. This minimizing of the deficit leads the Nation to run larger operating deficits than it otherwise would. Since deficits amount to negative saving, the current budgetary treatment of Social Security detracts from the national saving necessary to finance capital formation and build the Nation's productivity and wealth.

The Social Security Preservation Act aims to ensure that the Government exercises the discipline to endow the economy with the capacity to honor the promises it has made to workers and retirees. The Government needs to develop real saving—after taking into account the deficits run by the operating budget—in order for the Nation to have the capacity to support the retirement claims of the baby boom generation without imposing unbearable fiscal burdens on its children and grandchildren.

The Social Security Preservation Act seeks to restore budget honesty and to require accurate display of the true size of the Nation's deficit problem. Taking Social Security out of the calculation of the deficit will both protect the fiscal integrity of Social Security trust funds and provide the Nation with an accurate assessment of the fiscal policies needed to eliminate the deficit.

III. Historical Treatment of Social Security in the Budget

Under current law, Social Security is off budget, but included in the calculations of the deficit that trigger Gramm-Rudman-Hollings. This inconsistent treatment reflects a checkered history of inclusion in and exclusion from the budget.

The President's Commission on Budget Concepts

Before fiscal year 1969, the Government generally used the "administrative" budget, which did not include trust funds, but focused on the movement of funds into and out of the general fund of the Treasury.[3] In October 1967, the President's Commission on Budget Concepts recommended that the Government move to a "unified" budget, showing trust funds together with the rest of Government spending.

The President's Commission on Budget Concepts comprised the Secretary of the Treasury, the Director of the Bureau of the Budget, the Comptroller General, the Chairmen and Ranking Minority Members of the two Appropriations Committees, and other business, accounting, academic, and editorial experts.[4] It undertook

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[2] For a fuller statement of the need for the legislation, see the ADDITIONAL VIEWS OF SENATOR HOLLINGS below.

[3] For a discussion of the budgetary treatment of Social Security before Gramm-Rudman-Hollings, see Congressional Research Serv., Social Security, Medicare, and the Unified Budget, S. Print No. 83, 99th Cong., 1st Sess. (Sen. Comm. on Budget Print 1985).

[4] *See* Report of the President's Commission on Budget Concepts 109 (Oct. 1967).

the first major review of the form of the budget since the Budget and Accounting Act of 1921.[5]

The Commission's first recommendation stated:

> The Commission recommends—and this is its most significant recommendation—that a unified budget concept, . . . with complementary rather than competing concepts, be adopted. . . ." [6]

On trust funds specifically, the Commission recommended:

> The budget should include the receipts and expenditures of trust funds. This recommendation fully recognizes that individual trust funds must be accounted for separately, and that their activities must be reported on in a way which allows the identity and integrity of trust fund transactions and balances to be perserved.[7]

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[5] 42 Stat 20 (June 10, 1921) (codified as amended at 31 U.S.C. § 501 et seq. (1988)).

[6] REPORT OF THE PRESIDENT'S COMMISSION ON BUDGET CONCEPTS 11 (Oct. 1967) (emphasis in the original).

[7] *Id.* at 26 (emphasis in the original). The report of the Commission continued:

The trust fund programs have grown rapidly since the 1930's when most of the large funds were established. The exclusion of this large and growing volume of Federal activity from the administrative budget was an important reason for the development of the consolidated cash budget concept. In recent decades, considerable significance has been attached to the difference between the *Federally owned funds* included in the administrative budget, and the *trust funds* which were excluded. In theory, trust funds do not *belong* to the Federal Government; the Federal Government acts only as *trustee* for them. Old-age and survivors insurance, unemployment insurance, Federally-aided highway construction, medicare, and civil service retirement represent some of the important and sizable programs handled through trust funds, rather than through Federally owned funds.

There has never been a question of the Federal Government's responsibility for determining the size and shape of the major trust fund programs, or for altering or redirecting these programs by appropriate changes in legislation. In fact, legislation changing contribution formulas or tax rates affecting trust fund revenues, or changing benefit and grant formulas affecting trust fund expenditures, has come to be expected with increasing frequency. Legislative changes affecting one or another of the major trust funds occur almost every year. Rather than removing funds from the influence of the administration or the Congress, the trust fund technique, in the case of major trust funds, earmarks certain expenditure programs for financing by specific taxes or other revenue sources. This couples the benefit and costs of these programs more closely, and it also lends a degree of assurance to beneficiaries and grantees that the trust fund benefit or grant schedules once established will be protected.

The partial isolation from the budget and appropriations processes that results from financing programs through trust funds has its warm defenders and severe critics. The major criticism comes from those who want the budget process to embrace more fully and flexibly the relative costs and effectiveness of alternative approaches to program objectives and social needs.

With the passage of time, trust fund activities have loomed larger in both absolute and relative magnitude in the total picture of Federal Government receipts and expenditures. Receipts, expenditures, and the surplus or deficit in Federally owned funds, therefore, have correspondingly less significance. It is clear to the Commission that the current surpluses of trust funds must be considerd in calculating the effect of Federal Government activities on the level of income and employment, in managing Treasury cash balances, in deciding on Treasury cash borrowing needs, and in program evaluation.

The Commission *does not* recommend eliminating the concept of separate trust fund accounting. In many instances, in fact, it sees merit in earmarking specific revenue sources for well-defined programs of a long-run character. The need to respect the integrity of trust funds. and the requirements of control and accountability, in turn require the continued availability of trust fund receipt and expenditure figures separate from those of other funds. However, the Commission believes that the principal significance of trust funds for program decisions lies in an analysis of receipts and expenditures (cost and benefits) of the individual funds rather than in the totals for all trust funds combined, or the totals for Federally owned funds excluding trust funds.

The Commission feels it is important to emphasize budget totals which are inclusive of trust fund transactions. It does not object to the provision in the budget document of separate summary figures for the Federally owned funds, particularly during the period

Continued

In the wake of the recommendation of the President's Commission on Budget Concepts, the President's budget submission started including Social Security and other trust funds in the budget beginning with fiscal year 1969. With the adoption of the Congressional Budget and Impoundment Control Act of 1974,[8] Congress adopted the unified budget approach.

In the late 1970s and early 1980s, controversy arose over the inclusion of Social Security in the budget. Some proposed cutting Social Security benefits as a means of reducing the deficit. To that end, Congress and the President cut the Social Security minimum benefit, student benefit, and lump-sum death benefit, among other benefits.[9] Defenders of Social Security benefits saw inclusion of Social Security in the budget as a threat to their programs.

On July 29, 1981, as part of the debate on the Economic Recovery Act of 1981,[10] the Senate passed by a 97-to-2 vote an amendment offered by Senator Eagleton (for himself and Senator Stennis) that would have required a special statement on the outlays, revenues, and surpluses of Social Security as part of the President's budget submissions.[11] The conference committee dropped the provision,

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of transition to the new budget concepts, for the use of those whose main attention in the past has been to the administrative budget totals. However, in order to further the concept of a unified budget,

The Commission recommends strongly that the President's budget presentation give no attention to a surplus or deficit calculation on the basis of the administrative budget.

The Commission has carefully considered the administrative, accounting and other consequences of eliminating any separate, independent prominence to figures for the Federally owned funds taken as a group—the administrative budget—and it finds no serious obstacles in the way of fully implementing its recommendation within a relatively short period of time.

The surplus or deficit in the administrative budget is a misleading guide for measuring the fiscal impact of the budget on the economy. The administrative budget does not portray or price out the President's full program, nor does the administrative budget alone accurately measure congressional action on the President's requests. Congressional responsibility for trust fund receipts and expenditures is just as great as for Federally owned funds, since it can and does enact trust fund legislation with considerable frequency, although there is less flexibility available to the Congress to reduce trust fund expenditures.

Id. at 26–27 (emphasis in the original).

[8] Pub. L. No. 93–344, 88 Stat. 297 (July 12, 1974) (codified as amended at 2 U.S.C. §§ 601–688 (1988)) [hereinafter Congressional Budget Act].

[9] *See, e.g.*, Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97–35, 95 Stat. 357 (Aug. 13, 1981).

[10] Pub. L. No. 97–34, 95 Stat. 172 (Aug. 13, 1981).

[11] The amendment read as follows:

At the appropriate place in the bill insert the following:

SEC. . SEPARATE ACCOUNTING FOR SOCIAL SECURITY TRUST FUNDS.

(a) For each fiscal year beginning after September 30, 1984, the President shall transmit to the Congress, at the time he transmits the Budget under subsection (a) of section 201 of the Budget and Accounting Act, 1921, and at the time he submits the mid-year amendments and revisions of such Budget under subsection (g) of such section, a special statement summarizing requests for new budget authority, estimates of outlays and revenues, and estimates of deficit or surplus (stated both separately and in the aggregate) for the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund. The special statement required by this section shall include a comparative summary of the aggregate total requests for new budget authority, estimates of outlays and revenues, and estimates of surplus or deficit for all functions and activities of the Government (other than such Trust Funds). Such special statement shall also include an explanation and analysis of the economic assumptions on which the requests and estimates for such Trust Funds and the requests and estimates for such other functions of the Government are based.

(b) The special analysis required by this section shall be transmitted to the Congress in a separate volume from the Budget of the United States or the mid-year amendments and revisions of such Budget, as the case may be.

127 CONG. REC. S8,698 (July 29, 1981). For the debate and vote on the Eagleton amendment, including statements by Senators Long, Stennis, Sasser, and Kennedy, see *id.* at S8,698–701.

but Senator Eagleton offered it again on October 14, 1981, as an amendment to the Social Security Amendments of 1981,[12] and the Senate agreed to the amendment by a voice vote.[13] Once again, the conferees dropped the provision, but the issue remained highly visible.

The National Commission on Social Security Reform and the Social Security Amendments of 1983

In January 1983, the report of the National Commission on Social Security Reform stated:

> A majority of the members of the National Commission recommends that the operations of the OASI, DI, HI, and SMI trust funds should be removed from the unified budget.[14]

In the legislation that would become the Social Security Amendments of 1983,[15] first the House Ways and Means Committee and then the House responded to the Commission's recommendation with a bill that would display the Social Security trust funds separately but in the budget through fiscal year 1988 and remove them from the budget beginning in fiscal year 1989. The Senate bill had no such provision, and the Senate rejected two floor amendments that would have added similar language. By a vote of 56 to 41, the Senate tabled a motion to waive a point of order raised by Senator Domenici under the Congressional Budget Act[16] against an amendment by Senator Heinz that would have displayed the Social Security trust funds separately but in the budget through fiscal

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[12] Pub. L. No. 97-123, 95 Stat. 1659 (Dec. 29, 1981).

[13] *See* 127 Cong. Rec. S11,384 (Oct. 14, 1981).

[14] Report of the National Commission on Social Security Reform (1983) (emphasis in the original). The abbreviations to which the report refers stand for the four Social Security trust funds: the Old-Age and Survivors Insurance, Disability Insurance, Hospital Insurance, and Supplementary Medical Insurance Trust Funds.

The report went on:

> *Some of those who do not support this recommendation believe that the situation would be adequately handled if the operations of the social security program were displayed within the current unified Federal budget as a separate budget function, apart from other income security programs.*
>
> . . . . [I]n years when trust-fund income exceeded outgo, the result was a decrease in any general budget deficit that otherwise would have been shown—and vice versa.
>
> The National Commission believes that changes in the social security program should be made only for programmatic reasons, and not for purposes of balancing the budget. Those who support the removal of operations of the trust funds from the budget believe that this policy of making changes only for programmatic reasons would be more likely to be carried out if the social security program were not in the unified budget. Some members also believe that such a procedure will make clear the effect and presence of any payments from the general fund of the Treasury to the social security program. (Under present procedures, such payments are a "wash" and do not affect the overall budget deficit or surplus.)
>
> Those who oppose this recommendation believe that it is essential that the operations of the social security programs should remain in the unified Federal budget because the program involves such a large proportion of all Federal outlays. Thus, to omit its operations would misrepresent the activities of the Federal Government and their economic impact. Furthermore, it is important to ensure that the financial condition of the social security program be constantly visible to the Congress and the public. Highlighting the operations of the social security program as a separate line function in the budget would allow its impact thereon to be seen more clearly.

Id. (emphasis in the original).

[15] Pub. L. No. 98-21, 97 Stat. 65 (Apr. 20, 1983).

[16] Section 306 of the Congressional Budget Act prohibits the Senate to consider budgetary matters on legislation that the Budget Committee has not reported (or from which the Senate has not discharged the Budget Committee). *See* 2 U.S.C. § 637 (1988).

year 1988 and removed the Social Security trust funds—but not the medicare trust funds—from the budget beginning in fiscal year 1989.[17] The Senate then tabled an amendment by Senator Riegle that would have kept Social Security on budget but exempted it from reconciliation.[18] The conference committee agreed to a modified version of the House bill, ordering more prominent display of Social Security and medicare through fiscal year 1992, and then their removal from the budget in fiscal year 1993. The conference committee's recommendation became the Social Security Amendments of 1983.[19]

"BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

CHANGES MADE BY GRAMM-RUDMAN-HOLLINGS

The current schizophrenic treatment of Social Security resulted from Gramm-Rudman-Hollings in 1985. On the one hand, section 261(a) of Gramm-Rudman-Hollings[20] amended section 710 of the Social Security Act[21] to take Social Security out of the budgetary totals beginning with fiscal year 1986. As well, Gramm-Rudman-Hollings exempted Social Security from any across-the-board cuts

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[17] 129 CONG. REC. S3,587-603 (1983); Sen. Precedent PRL19830322-002 (Mar. 22, 1983) (LEGIS, Rules database).

[18] *Id.* at S3,603-04.

[19] Section 346 of the Social Security Amendments of 1983 reads:

BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

SEC. 346. (a)(1) Title VII of the Social Security Act (as amended by section 143 of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 710. The disbursement of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund shall be treated as a separate major functional category in the budget of the United States Government as submitted by the President and in the congressional budget, and the receipts of such Trust Funds, including the taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954, shall be set forth separately in such budgets.".

(2) The amendment made by paragraph (1) shall apply with respect to fiscal years beginning on or after October 1, 1984, and ending on or before September 30, 1992, except that such amendment shall apply with respect to the fiscal year beginning on October 1, 1983, to the extent it relates to the congressional budget.

(b) Effective for fiscal years beginning on or after October 1, 1992, section 710 of such Act (as added by subsection (a) of this section) is amended to read as follows:

"BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

"SEC. 710. (a) The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund and the taxes imposed under sections 1404, 3101, 3111 of the Internal Revenue Code of 1954 shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

"(b) The disbursements of the Federal Supplementary Medical Insurance Fund shall be treated as a separate major functional category in the budget of the United States Government as submitted by the President and in the congressional budget, and the receipts of such Trust Fund shall be set forth separately in such budgets.".

Pub. L. No. 98-21, § 346, 97 Stat. 65, 137-38 (Apr. 20, 1983), *amended by* Gramm-Rudman-Hollings, Pub. L. No. 99-177, § 261, 99 Stat. 1037, 1093-94 (Dec. 12, 1985) (current version at 42 U.S.C. § 911 (1988)).

[20] Pub. L. No. 99-177, § 261(a), 99 Stat. 1037, 1093-94 (Dec. 12, 1985).

[21] 42 U.S.C. § 911 (1988). The current law version of section 710(a) is reprinted below in the Section-by-Section Analysis section of this report, under the discussion of the conforming change to the social security act.

(or "sequestration").[22] The conference report to accompany Gramm-Rudman-Hollings explains:

G. SOCIAL SECURITY TRUST FUNDS

House Amendment

The House amendment exempts Social Security from sequestration and amends Section 710 of the Social Security Act to provide, beginning with fiscal years beginning after September 30, 1985, that the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund, and the Federal Disability Insurance Trust Fund, and the taxes imposed on employers, employees, and the self-employed would not be included in the totals of the Federal budget, either as submitted by the President or as stated in the Congressional budget. The amendment further provides that the receipts and disbursements of these funds shall be exempt from any general budget limitation imposed by statute on expe[n]ditures and net lending or budget outlays of the Federal government. This provision would expire on October 1, 1992, when the provision of current law removing the social security trust funds from the Federal budget takes effect.

The House amendment also provides that no provision of law enacted after the date of enactement of this Act, other than an appropriation to the trust funds already authorized under the Social Security Act as in effect on the date of enactment of this Act, may provide for payments from the general Treasury into the trust funds, or from the trust funds into the Treasury.

Senate Amendment

The Senate amendment is identical to the House amendment.

Conference Agreement

The Conference Agreement leaves unchanged from the House and Senate amendments the budgetary treatment of the Social Security trust funds. The conferees note that Section 201 includes the receipts and disbursements of the trust funds in the Federal budget for Fiscal Year 1986 through 1991 only for the purpose of the deficit estimates required to determine whether the Federal deficit is within the maximum deficit amount targets required in the emergency balanced budget act.[23]

Similarly, Gramm-Rudman-Hollings amended the Congressional Budget Act to prohibit congressional consideration of language in reconciliation legislation that would change Social Security benefits,[24] and set up a requirement for the affirmative vote of 60 Senators to waive the point of order for violating that prohibition.[25]

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[22] See Gramm-Rudman-Hollings, § 255(a), 2 U.S.C. § 905(a) (1988); H.R. Conf. Rep. No. 99-433, 99th Cong., 1st Sess. 85 (1985).

Note, however, that Gramm-Rudman-Hollings does not exempt administrative expenses for Social Security. See id. at 92.

[23] H.R. Conf. Rep. No. 99-433, 99th Cong., 1st Sess. 90 (1985).

[24] *See* Gramm-Rudman-Hollings, Pub. L. No. 99-177, § 201(b), 99 Stat. 1037, 1055 (Dec. 12, 1985); Congressional Budget Act, § 310(g), 2 U.S.C. § 641(g) (1988); H.R. CONF. REP. No. 99-433, 99th Cong., 1st Sess. 110 (1985).

[25] *See* Gramm-Rudman-Hollings, Pub. L. No. 99-177, § 271(b), 99 Stat. 1037, 1094 (Dec. 12, 1985) (codified as amended at 2 U.S.C. § 901 note (1988)); H.R. CONF. REP. No. 99-433, 99th Cong., 1st Sess. 117 (1985).

On the other hand, Gramm-Rudman-Hollings amended the definition of the term "deficit" to include Social Security within the calculation of the deficit for purposes of determining whether across-the-board cuts would be required. Once again, the conference report to accompany Gramm-Rudman-Hollings explains:

C. USE OF SOCIAL SECURITY TRUST FUNDS IN CALCULATION OF DEFICIT AMOUNTS

House Amendment

The House amendment provides that the calculation of the deficit during the five fiscal years of the Balanced Budget and Emergency Deficit Control Act of 1985 would be made taking into account the receipts and disbursements of the Federal Old-Age and Survivors and Disability Insurance Trust Funds each year during the 5-year period, notwithstanding Section 710(a) of the Social Security Act, which removes the operations of the Trust funds from the Federal budget. This provision is intended to allow use of the social security income and outgo in the calculation of the deficit at all points in the enforcement of the budget process only for purposes of comparison with the maximum deficit amounts provided for in the Balanced Budget Act.

Senate Amendment

With respect to treatment of the social security trust funds, the Senate amendment is identical.

Conference Agreement

The conference agreement leaves unchanged from the House and Senate amendments the treatment of the social security trust funds. This provision allows the yearly income and outgo of the social security trust funds to be included in the federal budget only for purposes of estimating the total deficit amount which must be addressed through sequester or Congressional action in order to reach the maximum deficit amount target. The scope of this provision is limited to that purpose of comparison with the maximum deficit amounts, and does not otherwise abrogate or contradict the effect of other amendments in this act that remove the operations of the social security trust funds from the unified budget. It is anticipated that the estimating agencies named in other provisions of this Act will in all other tasks related to the budget and legislative process adhere to the requirements of Section 261 of this Act, and remove the trust fund operations from the Federal budget as required.[26]

Experience After Gramm-Rudman-Hollings

For the entire period between the President's Commission on Budget Concepts and Gramm-Rudman-Hollings, during which Social Security was on budget, the surpluses and deficits of the Social Security trust funds that Gramm-Rudman took off budget

[26] H.R. Conf. Rep. No. 99-433, 99th Cong., 1st Sess. 77-78 (1985).

were relatively modest (see Table 1 [27]). In other words, while Social Security was on budget, the actual difference between the unified budget deficit and the operating budget deficit was relatively minor.

For fiscal years 1967 through 1975, the trust funds now off budget ran small surpluses of from $0.5 billion to $5.9 billion, averaging just under $3 billion a year. Including them on budget for the years beginning with 1969 decreased the deficits in the operating budget for those years modestly. Indeed, for the first year of inclusion, 1969, a $3.8 billion surplus in funds now off budget transformed a $0.5 billion operating deficit into a $3.2 billion unified surplus, the last surplus recorded by the Government.

For the period from fiscal year 1976 through 1982, the funds now off budget ran relatively modest deficits of from $1.1 billion to $7.9 billion, so that inclusion of Social Security in the unified budget actually worsened the deficit during those years by an average of a little less than $4 billion a year.

In the wake of implementation of the recommendations of the National Commission on Social Security Reform, however, the surpluses of the Social Security trust funds began to grow with fiscal year 1985. According to Congressional Budget Office projections, these surpluses amount to $59 billion for fiscal year 1990, will grow to $73 billion for fiscal year 1991, and will reach $124 billion in fiscal year 1995. Consequently, beginning with fiscal year 1988, rather substantial surpluses in the Social Security trust funds have fundamentally changed the meaning of the unified budget deficit and its relationship to the deficit in the operating budget.

The conference report to accompany Gramm-Rudman-Hollings also explains the change to the definition of "deficit" explicitly, noting the inconsistency that the law set up and that the congressional budget would have to set forth two sets of deficit numbers:

Section 201. Congressional Budget

(a) Definitions

(1) Deficit.--The Congressional Budget and Impoundment Control Act of 1974 (hereinafter referred to as "current law") does not include a definition of the term "deficit".

The House amendment contained a definition of the term "deficit".

The Senate amendment contained a definition of the term "deficit".

The conference agreement contains a definition of the term "deficit" which is similar to that found in both amendments. "Deficit" is defined as the amount by which outlays exceed revenues for a fiscal year. The definition includes all off-budget Federal entities.

The definition also includes, for the purposes of the Balanced Budget and Emergency Deficit Reduction Act of 1985, receipts and disbursements of the Social Security trust funds.

The conferees are aware that this requirement conflicts with the mathematical consistency requirement for budget resolutions contained in the Congressional Budget Act and the House rules. The Balanced budget and Emergency Deficit Control Act prohibits the budget resolution from setting forth social security spending and revenues. The mathematical consistency rule requires that the budget resolution therefore show a deficit which is computed without social security. The conferees intend that budget resolutions which are considered during the operation of the Balanced Budget and Emergency Deficit Control Act will contain two deficit computations: one will exclude social security so as to comply with the mathematical consistency rule. The other will include social security and will be the deficit level used for purposes of determining compliance with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act.

Id. at 101.

[27] For additional data on trust funds before 1985, see CONGRESSIONAL RESEARCH SERV., SOCIAL SECURITY, MEDICARE, AND THE UNIFIED BUDGET, S. Print No. 83, 99th Cong., 1st Sess. 53–75 (Sen. Comm. on Budget Print 1985).

TABLE 1.—REVENUES, OUTLAYS, AND DEFICITS [28]

[By fiscal year, in billions of dollars]

Fiscal year	Unified budget			Off-budget			On-budget		
	Revenues	Outlays	Deficit	Revenues	Outlays	Surplus	Revenues	Outlays	Deficit
1962	99.7	106.8	7.1	12.3	13.5	−1.2	87.4	93.3	5.9
1963	106.6	111.3	4.8	14.2	15.0	−0.8	92.4	96.4	4.0
1964	112.6	118.5	5.9	16.4	15.7	0.7	96.2	102.8	6.6
1965	116.8	118.2	1.4	16.7	16.5	0.2	100.1	101.7	1.6
1966	130.8	134.5	3.7	19.1	19.7	−0.6	111.7	114.8	3.1
1967	148.8	157.5	8.6	24.4	20.4	4.0	124.4	137.0	12.6
1968	153.0	178.1	25.2	24.9	22.3	2.6	128.1	155.8	27.7
1969	186.9	183.6	−3.2	29.0	25.2	3.8	157.9	158.4	0.5
1970	192.8	195.6	2.8	33.5	27.6	5.9	159.3	158.0	8.7
1971	187.1	210.2	23.0	35.8	32.8	3.0	151.3	177.3	26.0
1972	207.3	230.7	23.4	39.9	36.9	3.0	167.4	193 8	26.4
1973	230.8	245.7	14.9	46.1	45.6	0.5	184.7	200.1	15.4
1974	263.2	269.4	6.1	53.9	52.1	1.8	209.3	217.3	8.0
1975	279.1	332.3	53.2	62.5	60.4	2.1	216.6	271.9	55.3
1976	298.1	371.8	73.7	66.4	69.6	−3.2	231.7	302.2	70.5
1977	355.6	409.2	53.6	76.8	80.7	−3.9	278.7	328.5	49.8
1978	399.6	458.7	59.2	85.4	89.7	−4.3	314.2	369.1	54.9
1979	463.3	503.5	40.2	98.0	100.0	−2.0	365.3	403.5	38.2
1980	517.1	590.9	73.8	113.2	114.3	−1.1	403.9	476.6	72.7
1981	599.3	678.2	78.9	130.2	135.2	−5.0	469.1	543.0	73.9
1982	617.8	745.7	127.9	143.5	151.4	−7.9	474.3	594.3	120.0
1983	600.6	808.3	207.8	147.3	147.1	0.2	453.2	661.2	208.0
1984	666.5	851.8	185.3	166.1	165.8	0.3	500.4	686.0	185.6
1985	734.1	946.3	212.3	186.2	176.8	9.4	547.9	769.5	221.6
1986	769.1	990.3	221.2	200.2	183.5	16.7	568.9	806.8	237.9
1987	854.1	1,003.8	149.7	213.4	193.9	19.5	640.8	810.0	169.2
1988	909.0	1,064.1	155.1	241.5	202.7	38.8	667.5	861.4	193.9
1989	990.8	1,142.9	152.1	263.7	211.2	52.5	727.1	931.6	204.5
1990	1,044	1,238	195	283	223	59	761	1,015	254
1991	1,123	1,355	232	309	235	73	815	1,120	305
1992	1,188	1,426	239	329	246	83	859	1,181	322
1993	1,260	1,455	194	351	256	95	909	1,199	289
1994	1,337	1,483	146	374	2,66	109	962	1,217	255
1995	1,417	1,555	138	399	275	124	1,018	1,280	262

[28] For fiscal years 1962–1989, data are actual. *See* Congressional Budget Office, The Economic and Budget Outlook: Fiscal Years 1991–1995, at 122 (Jan. 1990). For fiscal years 1990–1995, data are Congressional Budget Office baseline projections. *See* Congressional Budget Office, The Economic and Budget Outlook: An Update 58 (July 1990). For comparability with Gramm-Rudman-Hollings targets, the projections exclude the Postal Service, which the Omnibus Budget Reconciliation Act of 1989 took off budget. The projections include additional resources beyond current law to resolve savings and loan institutions in the on-budget column.

A number of bills introduced in the Senate in the 100th and 101st Congresses sought to address this change by repealing the provision that included Social Security in the definition of the "deficit" for purposes of Gramm-Rudman-Hollings.[29] The Social Security Preservation Act is the culmination of these efforts.

The Committee on the Budget held a hearing on March 24, 1988, on "Social Security, Deficits, and the Baby Boomers' Retire-

[29] *See* S. 2211, 100th Cong., 2d Sess., 134 CONG. REC. S3,038-39 (Mar. 24, 1988) (Sen. Sanford); S. 2914, 100th Cong., 2d Sess., Cong. Rec. S16,889-95 (Oct. 19, 1988) (Sen. Moynihan); S. 101, 101st Cong., 1st Sess., 135 CONG. REC. S170, S425-29 (Jan. 25, 1989) (Sen. Sanford); S. 219, 101st Cong., 1st Sess., 135 CONG. REC. S173, S636-37 (Jan. 25, 1989) (Sen. Moynihan); S. 240, 101st Cong., 1st Sess., 135 CONG. REC. S173, S682-84 (Jan. 25, 1989) (Sen. Heinz); S. 401, 101st Cong., 1st Sess., 135 CONG. REC. S1,413, S1,421-22 (Feb. 9, 1989) (Sen. Hollings); S. 852, 101st Cong., 1st Sess., 135 CONG. REC. S4,384, S4,419 (Apr. 19, 1989) (Sen. Bryan); S. 1752, 101st Cong., 1st Sess., 135 CONG. REC. S13,297, S13,299-300 (Oct. 12, 1989) (Sen. Heinz); S. 1785, 101st Cong., 1st Sess., 135 CONG. REC. S13,893 (Oct. 24, 1989) (Sen. Moynihan); S. 1795, 101st Cong., 1st Sess., 135 CONG. REC. S14,129, S14,137-38 (Oct. 25, 1989) (Sen. Hollings).

ment." [30] During the debate on the fiscal year 1989 budget resolution shortly thereafter, Senator Chiles offered an amendment that would have stated the sense of the Congress that "the Congress should enact legislation that makes the definition of the deficit exclude the surplus (or deficit) from the Social Security trust fund for all purposes." [31] After substantial debate and amendment of the amendment, the Senate adopted by a voice vote an amendment offered by Senator Domenici stating the sense of the Congress that the National Economic Commission should "study the budgetary treatment of social security." [32]

The report of the National Economic Commission, issued March 1, 1989, recommended "validating" the Social Security surplus, that is, "running a unified budget surplus equal to the Social Security surplus," or "balancing the non-Social Security budget." [33]

In October 1989, the Committee on the Budget and the Committee on Governmental Affairs held two joint hearings on the budget process. During the hearing of October 18, 1989, the committees discussed the budgetary treatment of Social Security in the context of the testimony of Senator Heinz on his bill, S. 1752.[34]

During the 101st Congress, a number of Senators have engaged in sometimes lengthy discussions on the Senate floor calling for consideration of legislation to remove Social Security from the calculation of the deficit.[35] Indeed, on June 19, 1990, the Senate voted 96 to 2 to adopt an amendment offered by Senator Heinz that would create a point of order against considering a debt limit ex-

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[30] *See Concurrent Resolution on the Budget for Fiscal Year 1989: Hearings Before the Senate Comm. on the Budget*, 100th Cong., 2d Sess. 85–169 (1988) (S. Hrg. No. 578, Vol. III).

[31] 134 CONG. REC. S3,756 (Apr. 12, 1988).

[32] CONG. REC. S3,878–80 (Apr. 13, 1988). For debate on the Chiles amendment generally, see *id.* at S3,709–10, S3,756–85, S3,854–80 (Apr. 11, 12 & 13, 1988).

[33] REPORT OF THE NATIONAL ECONOMIC COMMISSION 15, 17 n.2 (Mar. 1, 1989).

The majority report stated:

> Presently, the annual Social Security surplus offsets part of the deficit in the non-Social Security budget. In effect Social Security is lending its reserves to the rest of the government. Under this practice, when Social Security eventully needs to draw down its reserves, the Federal government will have to raise taxes, cut non-Social Security spending, or borrow enough from the private sector to repay the funds it has borrowed from Social Security.
>
> Time exists to prevent this. The prospect of large Social Security reserves provides an opportunity both to protect the Federal government's Social Security promises and to increase investment in our nation's economic future. This will require altering current practice so that Social Security's reserves are used to create a surplus in the unified budget, not serve simply to offset deficits.
>
> After running a Federal deficit of nearly 6 percent of GNP in 1986, "validating" the annual Social Security reserves would yield an estimated unified budget surplus of 2 percent of GNP by the year 2000. This will be an immense shift in Federal fiscal policy, and must be undertaken gradually to preserve the stable economic growth now being experienced.
>
> . . . [I]t will increase government savings, contributing to national savings. Higher national savings would lead to increased investment and/or decreased reliance on foreign capital. Either way, it should help improve long-range economic growth. Increasing national investment will help raise future income so workers after the turn of the century can support the higher ratio of older citizens while enjoying higher living standards themselves.

Id. at 15–16 (footnotes omitted). Similarly, the minority report of the National Economic Commission quoted with approval testimony calling for running unified budget surpluses equal to the size of Social Security surpluses. *See id.* at 55–56.

[34] *See Budget Reform Proposals: Joint Hearings Before the Senate Comm. on Governmental Affairs & Comm. on the Budget*, 101st Cong., 1st Sess. 30–42 (S. Hrg. No. 101–560) (1989).

[35] *See* 135 CONG. REC. S15,137–47 (Nov. 7, 1989) (statements of Sen. Heinz, Majority Leader Mitchell, and others regarding scheduling of legislation regarding Social Security); 136 CONG. REC. S7,935–36, S7,949–50, S7,956–59, S7,974–79 (June 14, 1990) (same).

tension "if Congress has not acted to remove the OASDI revenues and expenditures from the calculation of the deficit." [36]

IV. SECTION-BY-SECTION ANALYSIS

Short Title

Section 1 of the Act sets forth the short title of the Act as the "Social Security Preservation Act."

Exclusion of Social Security From the Deficit

DEFINITION OF DEFICIT

Section 2(a)(1) of the Act removes Social Security from the calculation of the deficit by repealing the second sentence of the definition of "deficit" in the Congressional Budget and Impoundment Control Act of 1974.[37] The second sentence of that definition includes Social Security in the deficit under current law.

Under current law, the definition of "deficit" reads as follows (with the second sentence in italics):

> (6) The term "deficit" means, with respect to any fiscal year, the amount by which total budget outlays for such fiscal year exceed total revenues for such fiscal year. *In calculating the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and in calculating the excess deficit for purposes of sections 251 and 252 of such Act (notwithstanding section 710(a) of the Social Security Act), for any fiscal year, the receipts of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for such fiscal year and the taxes payable under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 during such fiscal year shall be included in total revenues for such fiscal year, and the disbursements of each such Trust Fund for such fiscal year shall be included in total budget outlays for such fiscal year.* Notwithstanding any other provisions of law except to the extent provided in section 710(a) of the Social Security Act, the receipts, revenues, disbursements, budget authority, and outlays of each off-budget Federal entity for a fiscal year shall be included in total budget authority, total budget outlays, and total revenues and the amounts of budget authority and outlays set forth for each major functional category, for such fiscal year. Amounts paid by the Federal Financing Bank for the purchase of loans made or guaranteed by a department, agency, or instrumentality of the Government of the United States shall be treated as outlays of such department, agency, or instrumentality.[38]

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[36] *See* Cong. Rec. S8,153.56 (June 18, 1990) (statement of Sen. Heinz offering his amendment); 136 Cong. Rec. S8,192.210 (June 19, 1990) (debate on the adoption of the Heinz amendment). At this writing, the Congress has yet to enact the amendment into law.

[37] 2 U.S.C. §§ 601–688 (1988).

[38] Congressional Budget Act, § 3(6), 2 U.S.C. § 622(6) (1988) (emphasis added).

The first sentence of the definition sets forth the basic rule that the deficit is the amount by which outlays exceed revenues. The Congressional Budget Act defines "outlays" as "expenditures and net lending of funds under budget authority during such year." [39] (The Congressional Budget Act does not define the term "revenues.") The Social Security Preservation Act does not change this basic rule.

In summary, the second sentence of the definition states that in calculating the deficit for Gramm-Rudman-Hollings purposes, the receipts of certain Social Security trust funds shall be included in revenues, and the disbursements of the trust funds shall be included in outlays. Consequently, under the language of current law that the Social Security Preservation Act strikes, the deficit or surplus in the Social Security trust funds is included in the deficit for the purposes of Gramm-Rudman-Hollings. The second sentence does this through the steps described in detail below.[40]

The second sentence of the definition begins by setting forth that its effect is first "for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985." [41] That Act is popularly known as Gramm-Rudman-Hollings.[42] The Congressional Budget Act elsewhere defines the term "maximum deficit amount" to mean the deficit targets set by Gramm-Rudman-Hollings.[43]

The second sentence of the definition of "deficit" sets forth that its effect is also "in calculating the excess deficit for purposes of sections 251 and 252 of such Act [Gramm-Rudman-Hollings]." [44] Gramm-Rudman-Hollings impliedly defines "deficit excess" to mean the amount by which the projected deficit will exceed the maximum deficit amount.[45] Section 251 of Gramm-Rudman-Hollings requires the Congressional Budget Office and the Office of Management and Budget to report annually in August and October on (among other things) the deficit excess that must be eliminated.[46] Section 252 requires the President to issue an order on October 15 making across-the-board cuts to eliminate the deficit excess if it exceeds $10 billion at that time.[47]

The second sentence of the definition of "deficit" makes clear that it governs "nothwithstanding section 710(a) of the Social Security Act." [48] Section 710(a) of the Social Security Act provides that

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[39] Congressional Budget Act, § 3(1), 2 U.S.C. § 622(1) (1988).

[40] This analysis draws on that in W. Dauster, Congressional Budget Act Annotated 13-18 (1990).

[41] Congressional Budget Act, §3(6), 2 U.S.C. § 622(6) (1988).

[42] 2 U.S.C. §§ 901-922 (1988).

[43] That definition states:

(7) The term "maximum deficit amount" means—
(A) with respect to the fiscal year beginning October 1, 1985, $171,900,000;
(B) with respect to the fiscal year beginning October 1, 1986, $144,000,000,000;
(C) with respect to the fiscal year beginning October 1, 1987, $144,000,000,000;
(D) with respect to the fiscal year beginning October 1, 1988, $136,000,000,000;
(E) with respect to the fiscal year beginning October 1, 1989, $100,000,000,000;
(F) with respect to the fiscal year beginning October 1, 1990, $64,000,000,000;
(G) with respect to the fiscal year beginning October 1, 1991, $28,000,000,000;
(H) with respect to the fiscal year beginning October 1, 1992, zero.

Congressional Budget Act, § 3(7), 2 U.S.C. § 622(7) (1988).

[44] Congressional Budget Act, § 3(6), 2 U.S.C. § 622(6) (1988).

[45] *See* Gramm-Rudman-Hollings, § 251(a)(1)(B), 2 U.S.C. § 901(a)(1)(B)(1988).

[46] *See* 2 U.S.C. § 901 (1988).

[47] *See* 2 U.S.C. § 902 (1988).

[48] Congressional Budget Act, § 3(6), 2 U.S.C. § 622(6)(1988).

two Social Security trust funds (the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund) shall not be included in the budget submitted by the President or the congressional budget.[49] The second sentence of the definition thus supersedes for Gramm-Rudman-Hollings purposes this existing law that takes Social Security off budget.

The second sentence of the definition of "deficit" next goes on to specify the Social Security trust funds and allied taxes that it affects: "the Federal Old-Age and Survivors Insurance Trust Fund[50] and the Federal Disability Insurance Trust Fund[51] . . . and the taxes payable under sections 1401(a),[52] 3101(a),[53] and 3111(a)[54] of the Internal Revenue Code of 1954."[55]

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[49] Through fiscal year 1992, section 710(a) of the Social Security Act provides:

§ 911. Budgetary treatment of trust fund operations

(a) Federal Old-Age and Survivors Insurance Trust Fund; Federal Disability Insurance Trust Fund

The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, and the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of Title 26, shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

42 U.S.C. § 911(a) (1988). For more on section 710(a) of the Social Security Act, see the discussion of section 2(b) of the Social Security Preservation Act in the next subsection below.

[50] This trust fund is created at 42 U.S.C. § 401(a) (1988).

[51] This trust fund is created at 42 U.S.C. § 401(b) (1988).

[52] Section 1401(a) provides:

§ 1401. Rate of tax

(a) Old-age, survivors, and disability insurance.

In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the following percent of the amount of the self-employment income for such taxable year:

In the case of a taxable year		Percent
Beginning after:	And before:	
December 31, 1983	January 1, 1988	11.40
December 31, 1987	January 1, 1990	12.12
December 31, 1989		12.40

26 U.S.C. § 1401(a) (1988).

[53] Section 3101(a) provides:

§ 3101. Rate of tax

(a) Old-age, survivors, and disability insurance.

In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b))—

In case of wages during during:	The rate shall be:
1984, 1985, 1986, or 1987	5.7 percent
1988 or 1989	6.06 percent
1990 or thereafter	6.2 percent

26 U.S.C. § 3101(a) (1988).

[54] Section 3111(a) provides:

§ 3111. Rate of tax

(a) Old-age, survivors, and disability insurance.

In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defines in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b))—

In case of wages paid during:	The rate shall be:
1984, 1985, 1986, or 1987	5.7 percent
1988 or 1989	6.06 percent
1990 or thereafter	6.2 percent.

26 U.S.C. § 3111(a) (1988).

[55] Congressional Budget Act, § 3(6), 2 U.S.C. § 622(6) (1988).

The second sentence of the definition concludes with its operative language that "the receipts of [these trust funds] and the taxes payable under [the allied tax provisions] shall be included in total revenues for such fiscal year, and the disbursements of each such Trust Fund for such fiscal year shall be included in total budget outlays for such fiscal year." [56] Applying the basic rule that the deficit is the amount by which outlays exceed revenues, this language means that these Social Security trust funds are thus included in the deficit. Thus, by repealing this second sentence of the definition, the Social Security trust funds would no longer be included in the deficit.

CONFORMING CHANGE TO EXPIRATION PROVISION

Section 2(a)(2) of the Social Security Preservation Act makes a conforming change to the expiration provisions of Gramm-Rudman-Hollings. The Social Security Preservation Act strikes a reference that would cause the second sentence of the definition of deficit (just discussed above) to expire September 30, 1993. As the Act strikes the second sentence of the definition of deficit, consistency requires striking a provision that indicates that the second sentence expires at some time in the future.

Specifically, section 2(a)(2) of the Act amends section 275(b) of Gramm-Rudman-Hollings, which reads as follows under current law, by striking the provision in italics:

> (b) EXPIRATION.—
>
> (1) Part C of this title, and the other provisions contained in or added by this title which are listed in paragraph (2), shall expire September 30, 1993.
>
> (2) The other provisions referred to in paragraph (1) are as follows:
>
> (A) section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 *and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)*;
>
> (B) sections 301(i) and 304(b) of the Congressional Budget Act of 1974 and the portion of section 311(a) of such Act which begins with "or, in the Senate" and ends with "paragraph (2) of such subsection)" (as added by section 201(b) of this joint resolution);

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[56] *Id.*

(C) section 1105(f) and 1106(c) of title 31, United States Code (as added by sections 241(b) and 242(b) of this joint resolution); and

(D) section 271(b) of this joint resolution.[57]

Conforming Change to the Social Security Act

As noted above,[58] section 710 of the Social Security Act addresses the budgetary treatment of Social Security trust funds. Section 2(b) of the Social Security Preservation Act makes a conforming change to section 710 of the Social Security Act to make clear that Social Security is excluded from the deficit as well as from the other totals in the budget.

Through fiscal year 1992, section 710(a) of the Social Security Act provides:

> **§ 911. Budgetary treatment of trust fund operations**
>
> **(a) Federal Old-Age and Survivors Insurance Trust Fund; Federal Disability Insurance Trust Fund**
>
> The receipts and disbursement of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, and the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of Title 26, shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.[59]

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[57] Gramm-Rudman-Hollings, § 275(b), 2 U.S.C. § 901 note (1988).

[58] *See supra* n. 50.

[59] 42 U.S.C. § 911(a) (1988).

Note that beginning with fiscal year 1993, section 710(a) will change so that it also applies to the Medicare hospital insurance trust fund. In the following quotation of section 710(a) as it will appear beginning in fiscal year 1993 (under current law), additions to the version of section 710(a) in force through fiscal year 1992 (under certain law) appear in *italic*, while deletions appear in black brackets.

> (a)*(1)* The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund, [and] the Federal Disability Insurance Trust Fund, *and the Federal Hospital Insurance Trust Fund* and the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of Title 26, shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.
>
> *(2) No provision of law enacted after December 12, 1985 (other than a provision of an appropriation Act that appropriates funds authorized under this chapter as in effect on December 12, 1985) may provide for payments from the general fund of the Treasury to any Trust Fund specified in paragraph (1) or for payments from any such Trust Fund to the general fund of the Treasury.*

42 U.S.C. § 911 note (1988).

Section 346(b) of the Social Security Amendments of 1983, Pub. L. No. 98-21, § 346(b), 97 Stat. 138 (Apr. 20, 1983), and section 261(b) of Gramm-Rudman-Hollings, Pub. L. No. 9-177, § 261(b), 99 Stat. 1037, 1094 (Dec. 12, 1985), require the text of section 710(a) to change effective for fiscal years beginning with fiscal year 1993. For a discussion of this change, see W. Dauster, Congressional Budget Act Annotated 14-15 n.33 (1990).

It is the intent of the Social Security Preservation Act that the changes that it makes to the current version of section 710(a) of the Social Security Act as it exists under current law will persist in the version of section 710(a) that will become effective for fiscal year 1993.

The Social Security Preservation Act changes "shall not be included in the totals of the budget" [60] to "shall not be included in the *budget deficit or any other* totals of the budget," [61] making explicit that the totals from which Congress and the President must exclude Social Security include the deficit.

Effective Date

Section 2(c) of the Social Security Preservation Act indicates that the Act shall take effect for fiscal years beginning with fiscal year 1991. It is the intent of the Committee that the Act will thus govern the reports of the Directors of the Congressional Budget Office and the Office of Management and Budget under section 251 of Gramm-Rudman-Hollings,[62] even though those Directors may have prepared earlier reports [63] in conformance with then-current law. Similarly, the Act will govern the President in the issuance of orders under section 253 of Gramm-Rudman-Hollings,[64] and will govern the Senate in its enforcement of points of order against exceeding the maximum deficit amount under section 311(a) of the Congressional Budget Act.[65]

The Committee is cognizant of the estimates of the Congressional Budget Office (reflected in the letter from the Director of that Office reprinted below in the Cost Estimate section of this report) that removal of the surpluses of the Social Security trust funds from the calculation of the deficit will increase by $73 billion on the amount of deficit reduction needed to avoid across-the-board cuts under Gramm-Rudman-Hollings for fiscal year 1991.

V. ROLL-CALL VOTES IN COMMITTEE

Senator Ernest F. Hollings moved that the Committee report the Social Security Preservation Act.

The Committee rejected by a vote of 13 to 8 a Domenici amendment regarding the extension of Gramm-Rudman-Hollings, rejected

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[60] 42 U.S.C. § 911(a) (1988).

[61] Social Security Preservation Act, § 2(b), 101st Cong., 2d Sess. (1990).

[62] 2 U.S.C. § 901 (1988).

[63] For an example of such an earlier report, see Office of Management and Budget, Mid-Session Review of the Budget (July 16, 1990).

[64] 2 U.S.C. § 902 (1988).

[65] Section 311(a) states (in relevant part):

New Budget Authority, New Spending Authority, and Revenue Legislation Must Be Within Appropriate Levels

Sec. 311. (a) Legislation Subject to Point of Order.—Except as provided by subsection (b), after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or amendment providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or reducing revenues for such fiscal year, or any conference report on any such bill or resolution, if—(1) the enactment of such bill or resolution as reported; (2) the adoption and enactment of such amendment; or (3) the enactment of such bill or resolution in the form recommended in such conference report,

. . ., in the Senate, would otherwise result in a deficit for such fiscal year that—

(A) for fiscal year 1989 or any subsequent fiscal year, exceeds the maximum deficit amount specified for such fiscal year in section 3(7); . .

. . .

except to the extent that paragraph (1) of section 301(i) or section 304(b), as the case may be, does not apply by reason of paragraph (2) of such subsecton.

2 U.S.C. § 642(a) (1988). For more on the application of this section, see W. Dauster, Congressional Budget Act Annotated 197-210 (1990).

by a vote of 13 to 8 a Domenici-Nickles amendment creating a point of order against using the Social Security trust fund, rejected by a vote of 12 to 9 a Nickles amendment on the same subject, rejected by a vote of 13 to 9 an Armstrong amendment on enhanced rescission powers, for the President, and rejected by a vote of 13 to 8 a Symms amendment on transportation trust funds.

The Committee then agreed to the motion of Senator Hollings to order the Act reported by a vote of 20 to 1.

Domenici Amendment on Extension of Gramm-Rudman-Hollings

Senator Domenici offered an amendment providing for the extension of Gramm-Rudman-Hollings.

The Committee did not agree to the Domenici amendment by a vote of 8 yeas to 13 nays:

Yeas:	Nays:
Mr. Domenici	Mr. Sasser
Mr. Boschwitz	Mr. Hollings
Mr. Symms	Mr. Johnston
Mr. Grassley	Mr. Riegle
Mr. Kasten	Mr. Exon
Mr. Nickles	Mr. Lautenberg
Mr. Gramm	Mr. Simon
Mr. Bond	Mr. Sanford
	Mr. Wirth
	Mr. Fowler
	Mr. Conrad
	Mr. Dodd
	Mr. Robb

Domenici-Nickles Social Security Amendment

Senator Domenici (on behalf of himself and Senator Nickles) offered an amendment that would create a Social Security solvency point of order.

The Committee did not agree to the Domenici-Nickles amendment by a vote of 8 yeas to 13 nays:

Yeas:	Nays:
Mr. Simon	Mr. Sasser
Mr. Domenici	Mr. Hollings
Mr. Boschwitz	Mr. Johnston
Mr. Symms	Mr. Riegle
Mr. Grassley	Mr. Exon
Mr. Nickles	Mr. Lautenberg
Mr. Gramm	Mr. Sanford
Mr. Bond	Mr. Wirth
	Mr. Fowler
	Mr. Conrad
	Mr. Dodd
	Mr. Robb
	Mr. Kasten

Nickles Social Security Point of Order Amendment

Senator Nickles offered an amendment that would create a point of order against legislation modifying the use of Social Security funds.

The Committee did not agree to the Nickles amendment by a vote of 9 yeas to 12 nays:

Yeas:	Nays:
Mr. Simon	Mr. Sasser
Mr. Domenici	Mr. Hollings
Mr. Boschwitz	Mr. Johnston
Mr. Symms	Mr. Riegle
Mr. Grassley	Mr. Exon
Mr. Kasten	Mr. Lautenberg
Mr. Nickles	Mr. Sanford
Mr. Gramm	Mr. Wirth
Mr. Bond	Mr. Fowler
	Mr. Conrad
	Mr. Dodd
	Mr. Robb

Armstrong Amendment on Enhanced Rescission

Senator Armstrong offered an amendment on enhancing the rescission powers of the President.

The Committee did not agree to the Armstrong amendment by a vote of 9 yeas to 13 nays:

Yeas:	Nays:
Mr. Domenici	Mr. Sasser
Mr. Armstrong	Mr. Hollings
Mr. Boschwitz	Mr. Johnston
Mr. Symms	Mr. Riegle
Mr. Grassley	Mr. Exon
Mr. Kasten	Mr. Lautenberg
Mr. Nickles	Mr. Simon
Mr. Gramm	Mr. Sanford
Mr. Bond	Mr. Wirth
	Mr. Fowler
	Mr. Conrad
	Mr. Dodd
	Mr. Robb

Symms Amendment on Highway and Airport and Airway Trust Funds

Senator Symms offered an amendment to remove the receipts and disbursements of the Highway and Airport and Airway Trust Funds from the calculation of the deficit.

The Committee did not agree to the Symms amendment by a vote of 8 yeas to 13 nays:

Yeas:	Nays:
Mr. Domenici	Mr. Sasser
Mr. Boschwitz	Mr. Hollings

Mr. Symms
Mr. Grassley
Mr. Kasten
Mr. Nickles
Mr. Gramm
Mr. Bond
Mr. Johnston
Mr. Riegle
Mr. Exon
Mr. Lautenberg
Mr. Simon
Mr. Sanford
Mr. Wirth
Mr. Fowler
Mr. Conrad
Mr. Dodd
Mr. Robb

HOLLINGS MOTION TO REPORT THE SOCIAL SECURITY PRESERVATION ACT

The Committee agreed to the Hollings motion to report the Social Security Preservation Act by a vote of 20 yeas to 1 nay:

Yeas:	Nays:
Mr. Sasser	Mr. Gramm
Mr. Hollings	
Mr. Johnston	
Mr. Riegle	
Mr. Exon	
Mr. Lautenberg	
Mr. Simon	
Mr. Sanford	
Mr. Wirth	
Mr. Fowler	
Mr. Conrad	
Mr. Dodd	
Mr. Robb	
Mr. Domenici	
Mr. Boschwitz	
Mr. Symms	
Mr. Grassley	
Mr. Kasten	
Mr. Nickles	
Mr. Bond	

VI. JOINT REFERRAL UNDER THE STANDING ORDER

The Committee on the Budget has jurisdiction over the matter in the Social Security Preservation Act by virtue of the standing order on the referral of budget-process legislation into which the Senate entered on August 4, 1977.[66] Upon the reporting of the Act,

[66] On August 4, 1977, the Senate agreed by unanimous consent:
that the legislation affecting the congressional budget process, as described below, be referred jointly to the Committees on the Budget and on Governmental Affairs. If one committee acts to report a jointly-referred measure, the other must act within 30 calendar days of continuous [session], or be automati[c]ally discharged.
Legislative proposals affecting the congressional budget process to which this order applies are:
First. The functions, duties, and powers of the Budget Committee—as described in title I of the act;

Continued

the Presiding Officer will refer it to the Committee on Governmental Affairs pursuant to the standing order, with instructions that the Committee on Governmental Affairs shall have 30 days to report or be discharged.

VII. REGULATORY IMPACT

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate "the regulatory impact which would be incurred in carrying out the bill." [67] The enactment of this legislation would not have significant regulatory impact.

VIII. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 20, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has examined the budgetary implications of the "Social Security Preservation Act," as ordered reported by the Senate Commitee on the Budget on July 18, 1990. The bill would remove the revenues and outlays of the Federal Old-Age and Survivors Insurance (OASI) and Federal Disability Insurance (DI) trust funds from all totals of the federal budget, including for the purposes of the Balanced Budget and Deficit Control Act (BBA) of 1985, as amended.

The bill would have no direct impact either on total federal revenues or federal outlays. On the other hand, the bill could substantially increase any automatic sequestration which might be required by the provisions of the BBA. (See the table below.) The

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Second. The functions, duties, and powers of the Congressional Budget Office—as described in title[s] II and IV of the act);

Third. The process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof. That process includes the establishment of: mandatory ceilings on spending and appropriations; a floor on revenues; timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriations bills; and enforcement mechanisms for the limits and timetables,

all as described in titles III and IV of the act[;]

Fourth. The limiting of backdoor spending device[s]--as described in title IV of the act;

Fifth. The timetables for Presidential submission of appropriations and authorization requests—as described in title VI of the act;

Sixth. The definitions of what constitutes impoundment—such as "rescissions" and "deferrals," as provided in the Impoundment Control Act, title X;

Seventh. The process and determination by which impoundments must be reported to and considered by Congress—as provided in the Impoundment Control Act, title X;

Eighth. The mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

Ninth. The provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act—as set forth in title I thereof.

123 Cong. Reg. S13,553 (aug. 4, 1977). See generally W. Dauster, Congressional Budget Act Annotated 582-87 (1990) (on application of the standing order).

[67] STANDING RULES OF THE SENATE Rule XXVI(11)(b)(1) (1990).

CBO currently projects that the required sequester for fiscal year 1991 would be about $100 billion. (See CBO, *The Economic and Budget Outlook: An Update,* July 1990.) This legislation would increase the sequestration by another $73 billion, unless significant changes in non-Social Security spending and revenue provisions were enacted or the deficit targets were increased.

CBO BASELINE DEFICITS WITH AND WITHOUT SOCIAL SECURITY SURPLUSES

[By fiscal years, in billions of dollars]

	1991	1992	1993	1994	1995
Total Federal deficit	164	158	162	160	142
Social Security surplus	73	83	95	109	124
Deficit under bill	237	241	256	268	265
BBA deficit targets	64	28	0	n.a.	n.a.

If you wish further details, we will be pleased to provide them. The CBO staff contact is Paul Cullinan.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

IX. ADDITIONAL VIEWS

ADDITIONAL VIEWS OF MR. HOLLINGS

A bill introduced by myself along with Senators Johnston, Exon, Riegle, Simon, Sanford, Wirth, Fowler, Conrad, Dodd, and Robb today in the Committee, which passed by a bipartisan 20 to 1 vote, has a simple and straightforward public purpose: to remove the huge annual Social Security surpluses from calculations of the budget for Gramm-Rudman-Hollings purposes. If signed into law, this bill will move us one giant step closer to exposing the true size and scale of the federal budget deficit and attaining truth in budgeting. Unmasking the true deficit is, in turn, the essential precondition for rallying public support behind a meaningful effort to reduce the deficit through significant spending cuts and tax increases. And, ultimately, the only way to truly protect and preserve the Social Security Trust Fund surpluses is to balance the budget and, indeed, begin to run the Government in the black.

The fact is that more than half of the annual Federal budget deficit is now hidden from public attention due to accounting tricks and quirks. To illustrate the problem, I would note that on July 16, Office of Management and Budget Director Richard Darman unveiled a re-estimated, mid-year fiscal 1991 deficit projection which he claimed to be $168.8 billion, excluding the megabillions to be spent on the S&L bailout. Mr. Darman's $168.8 billion figure depends on two things: first, counting "off budget" the $62.6 billion in S&L bailout spending in 1991, which is by no means a foregone conclusion inasmuch as, under current law, all future S&L spending will in fact be counted "on budget"; and second, counting "on budget" the huge Social Security Trust Fund surplus. In other words, the game is this: anything that decreases the deficit is counted "on budget," and anything that increases the deficit is put "off." However, if we take the honest approach to keeping S&L bailout expenses "on budget" while putting the Social Security surpluses "off budget," then we see the true FY 1991 deficit estimate is well beyond $300 billion—nearly two times bigger than Mr. Darman's fanciful $168.8 billion.

How do we expose the actual FY 1991 deficit of over $300 billion to public attention and—inevitably—public outrage? One, we must make sure that the S&L bailout expenditures are kept "on budget" and in the public eye where they belong. Two, we must change the budget law to take the various trust-fund surpluses "off budget" for Gramm-Rudman-Hollings purposes. This latter objective is partially accomplished by my bill: the $73 billion Social Security surplus in FY 1991 would be taken out of the deficit calculations. There is growing support in the Senate to go the next step by removing the

other trust funds from deficit calculations as well. However, a majority of the Committee agreed with me today that we should use a different legislative vehicle to remove the non-Social Security trust funds from the deficit calculations. For that reason, an amendment to my bill by Senator Steve Symms to remove the Airport and Airways Trust Fund surpluses from Gramm-Rudman-Hollings calculations was defeated. I and others agree with Senator Symms' objective; we simply prefer to see it accomplished on a different bill.

The fact is, all proposed amendments to my bill were soundly defeated today at my urging. As we learned during Senator Lawton Chiles' attempt to attach to the FY 1989 budget resolution a Sense of the Senate resolution putting the Social Security surpluses "off budget," it is all too easy for an initiative focusing narrowly on taking the Social Security Trust Fund to become a Christmas tree for Senators seeking to put other accounts "off budget," to the point where the Christmas tree bends and finally breaks. So my strategy is to stick to the single, achieveable objective of putting Social Security surpluses "off budget," and this is best accomplished by reporting a "clean" bill. The Majority Leader has promised us a floor vote on precisely such a bill. Moreover, such a bill is in conformity with the will of the Senate, as expressed in the recent 96-to-2 vote in favor of the Heinz amendment to S. 566, an amendment which requires a vote on this matter prior to passage of a new debt-limit extension. In addition, I would note that, at the next mark-up, the Committee will consider an omnibus budget process reform bill that can be used to accommodate other budget-process-reform proposals.

I and perhaps a majority of Committee members support many of those proposals. For instance, I am a strong supporter of giving the President line-item veto authority; but not on this bill. I am a strong supporter of taking Medicare Trust Fund surpluses as well as Airport and Highway Trust Fund surpluses out of the Gramm-Rudman-Hollings calculations; but not on this bill.

Objection was heard in Committee today that removing Social Security surpluses from the deficit calculations would make the FY 1991 Gramm-Rudman-Hollings target unreachable. Senators Gramm and Domenici issued apocalyptic warnings that my bill would "destroy Gramm-Rudman-Hollings" because it does not provide for a extension of the Gramm-Rudman-Hollings deficit-reduction timetable. Yet, as a practical matter, this is a non-issue. The current 1991 deficit target of $64 billion is already unreachable, and it is a given that the Budget Summit negotiators will include a new Gramm-Rudman-Hollings timetable in whatever agreement they ultimately produce. So, again, I do not necessarily oppose revising the Gramm-Rudman-Hollings targets; but not on this bill.

Finally, let's be under no illusions that this bill would put an end to the ransacking of the Social Security Trust Fund. It does not. Trust fund surpluses, which by law can be invested only in Government securities, will continue to be spent to meet the operating expenses of the Government. All that remains in the mis-named "trust fund" is a mountain of Treasury notes, i.e., IOUs. The only way to prevent the trust fund monies from being spent in this manner would be to change the law to permit investment of Social Security monies in non-governmental equity, a policy change I do

not now recommend. However, my bill will indirectly act to safeguard the Social Security Trust Fund by increasing the pressure to tackle the deficits in a meaningful, dramatic way. After all, there is one sure-fire way to protect the Social Security surpluses: balance the Federal budget.

ERNEST F. HOLLINGS.

ADDITIONAL VIEWS OF MR. RIEGLE

By reporting legislation to remove Social Security from deficit calculation, the Senate Budget Committee has taken an important step toward protecting the integrity of the Social Security system and acknowledging the true size of the federal deficit. I strongly support this step and urge my colleagues to support this measure when it comes to the Senate floor.

As my colleagues are all aware, Social Security faced a funding shortage in the early 1980s. In 1983 Congress enacted a law to put the system on a sound financial footing well into the future. As a result of this action, reserves have been building up in the Social Security trust funds to make sure that money will be available to pay benefits to all current and future retirees who earned them.

As the federal deficit increased dramatically during the 1980s, I and many of my colleagues were concerned that some might try to cut Social Security benefits to reduce the deficit, even though those benefits are financed through a dedicated payroll contribution. I worked with several of my colleagues at that time to take Social Security out of the federal budget so that there would be no temptation to cut benefits to balance the budget or to use these funds for any other purpose.

Although we succeeded in taking Social Security out of the federal budget in 1985, this change has been virtually ignored as a result of Gramm-Rudman-Hollings. Under this law, the government continues to count Social Security when determining the size of the federal budget deficit. This means that the large reserves—$59 billion this fiscal year according to CBO—which are now accumulating in the Social Security trust funds make the deficit appear smaller than it actually is.

Economists have also argued that the reserves must be saved if they are to be available for future retirees. Yet, under the current system, the reserves are being counted in the deficit calculation so no real savings is occurring. Unless this money is set aside or used for deficit reduction and not used to fund current programs, new taxes will be needed in the future to repay the money that Treasury borrows from the trust funds today. This means that workers will have to pay twice for their benefits. I think this is wrong.

Removing these reserves will force the federal government to bring federal spending under control without relying on Social Security funds which is part of the deficit problem.

During Committee deliberations on this measure questions were raised about how to make sure that the long term actuarial soundness of Social Security is protected, once it is removed from the unified budget. I am concerned about this problem, and am examining how the system would best be protected. This issue should be considered by the Senate Finance Committee which is charged with

the responsibility of monitoring the long term health of the Social Security system.

Finally, I would like to comment on concerns expressed by some of my colleagues that this legislation does not extend the Gramm-Rudman-Hollings deficit targets to reflect the true size of the deficit problem. I think it is now clear that Gramm-Rudman-Hollings has failed as a deficit reduction measure. It had led to precisely the problem we are trying to deal with today—that is it encourages efforts to hide the true size of the deficit, rather than efforts to take the hard steps necessary to deal with it. Clearly, to be successful, any budget agreement that is made this year will have to address the question of making sure that savings are realized. I hope we will abandon the failed Gramm-Rudman-Hollings approach and adopt a mechanism which encourages honesty in budgeting.

I will continue to do all I can to make sure that the Social Security program is strong and sound and that benefits are protected for all who have earned them.

DONALD W. RIEGLE, Jr.

ADDITIONAL VIEWS OF MR. SANFORD

In March of 1988, when I introduced legislation to remove Social Security from the deficit calculations, most people thought this was a radical notion. I am delighted that attitudes about the misusing of Social Security trust funds have changed, and I am proud to be an original co-sponsor of this important measure. Senator Hollings' able leadership on this issue has helped generate nearly unanimous support for it.

There are excellent reasons for protecting Social Security by removing it from the Gramm-Rudman deficit calculations. This is a giant step forward, but it falls short of getting us to an honest accounting of the Federal budget. In Fiscal Year 1991, the misuse of Social Security reserves, including interest earned by the trust funds, is a significant and rapidly growing part of the cover-up.

However, removing Social Security alone will not prevent the White House and Congress from continuing to conceal a significant part of annual debt increase, it simply reduces the amount we can conceal. Another giant step is needed to prevent the "creative accounting" of other Federal retirement programs and interest earned by them.

During the past decade nearly one trillion dollars of debt increase has been excluded from our deficit calculations. We have fooled the public into believing that our annual deficits were declining while, all the time, our annual debt increases—our real deficits—have been climbing. This misleading of the public must stop.

A truly honest accounting of the Federal budget requires the use of a deficit figure that fairly reflects annual debt increase. Redefining deficit as such, without the use of any Federal retirement programs, is our next giant step.

TERRY SANFORD.

ADDITIONAL VIEWS OF MR. DOMENICI

It is somewhat ironic that the first legislative mark-up in the 16 year history of the Senate Budget Committee produced a bill that does not do what its authors suggest and, more importantly, weakens the fiscal discipline inherent in the Gramm-Rudman-Hollings budget law.

I voted for Senator Hollings' proposal because I support the concept of taking Social Security out of the budget deficit calculation. But I cast this vote with reservations.

The best way to protect Social Security is to reduce the Federal budget deficit. We need to balance our non-Social Security budget so that the Social Security trust fund surpluses can be invested (by lowering our national debt) instead of used to pay for other Federal operating costs. We could move toward this goal without changing the unified budget, a concept which has served us well for over twenty years now.

Changes in our accounting rules without real deficit reduction will not make Social Security more sound. In fact, we could make matters worse by opening up the trust funds to unrestrained spending. Under current law, the trust funds are protected by the budget process. Congress cannot spend the trust fund reserves without new spending cuts or revenue increases in the rest of the budget to meet Gramm-Rudman-Hollings deficit reduction requirements. If we take Social Security out of GRH without any new protection for the trust funds, Congress could spend the reserves without facing new spending cuts or revenue increases in other programs. And if we spend the trust fund reserves today, we will threaten the solvency of the Social Security program, putting at risk the benefits we have promised to today's workers.

Of course, I also understand that we might be able to restore some public trust by taking Social Security out of the deficit calculation. Trust that we in Congress are not "masking the budget deficit" with Social Security. That is why I believe we should take Social Security out of the deficit, but *only* if we provide strong protection against spending the trust fund reserves. We need a "firewell" around those trust funds to make sure the reserves are there to pay Social Security benefits in the next century. Without a "firewall" or the discipline of budget constraints, the trust funds would be unprotected and could be spent or any number of costly programs.

Unfortunately, the Hollings bill does not protect Social Security, which is why Senator Nickles and I offered our "firewall" amendment, defeated by a vote of 8 to 13. The amendment, drafted over the last six months by myself and Senators Heinz, Rudman, Gramm, and Deconcini, included: a 60 vote point of order against legislation which would reduce the 75 year actuarial balance of the Social Security trust funds; additional Gramm-Rudman-Hollings

deficit reduction requirements in all years in which legislation lowered the Social Security surpluses; and notification to Social Security taxpayers on the Personal Earnings and Benefit Estimate Statements (PEBES) each time Congress lowered the reserves available to pay benefits to future retirees.

With just one exception, the other side of the aisle voted against this protection for Social Security beneficiaries.

Furthermore, the Hollings bill says nothing about how or when we will achieve balance in the non-Social Security budget. The bill simply takes Social Security out of the deficit calculation. If enacted, the Hollings bill would require $173 billion in deficit reduction in 1991 to meet the statutory GRH target (see attached table). Obviously, that is not going to happen.

I believe we need to extend Gramm-Rudman-Hollings to ensure we have the discipline to achieve balance in the non-Social Security portion of the budget. The Budget Summit negotiators are discussing a goal of $450 to $500 billion in deficit reduction over the next five years. Once we reach an agreement, that plan should be the framework for extending the GRH law.

I offered a Sense of the Congress amendment during the mark-up expressing this view. I offered this to put the Hollings bill in some context.

But the Democratic members of the Committee refused to consider even an amendment acknowledging the facts about our budget situation, rejecting my proposal by another 8 to 13 vote. In fact, the Chairman indicated that there was some concern on his side of the aisle about extending the Gramm-Rudman-Hollings discipline. One might infer that, for some, this mark-up was really an effort to kill Gramm-Rudman-Hollings.

I am not sure what we accomplished in reporting out a bill with no protection for Social Security and with no suggestion of what we think should happen regarding the deficit targets. I, for one, do not want to do anything which could endanger Social Security or Gramm-Rudman-Hollings budget discipline. At a minimum, I will offer the "firewall" amendment to protect Social Security should the reported bill be considered by the full Senate.

PETE V. DOMENICI.

CBO JUNE BASELINE DEFICIT ESTIMATES

[Dollars in billions]

	1991	1992	1993	1994	1995
Baseline deficit excluding RTC	$164	$158	$162	$160	$142
Baseline deficit including RTC	232	239	194	146	138
Social Security surplus	73	83	95	109	124
Baseline deficit excluding RTC, and excluding Social Security surplus	237	241	257	269	266
Baseline deficit including RTC, and excluding Social Security surplus	305	322	289	255	262
GRH targets	64	28	0	0	0
Deficit reduction required to meet GRH targets from: Baseline deficit excluding RTC, and excluding Social Security surplus	173	213	257	269	266
Baseline deficit including RTC, and excluding Social Security surplus	241	294	289	255	262

Prepared by SBC Minority Staff, 23-Jul-90.

ADDITIONAL VIEWS OF MR. ARMSTRONG

The action taken by this Committee to move Social Security off budget without affording protection against raiding the trust fund reserves is one more step along the path to disaster. With little more than a wink and a nod, this Committee opted for politics over responsibility.

What this action reflects, I believe, is the degree to which we no longer function as a Committee on the budget. In a certain sense, if the Senate Budget Committee were a normal economic enterprise, it would have sued for Chapter 11 bankruptcy protection long ago. Since the Budget Act of 1974, Congress has been part witness to and part contributor to one of the saddest and most tortured demises ever seen. Perhaps the only "process reform" capable of resuscitating our Committee would be the termination of summitry as a method of crafting fiscal policy for this nation.

The now routine emergency annual budget summit has become one of the most popular disguises during our yearly budget Mardi Gras. But each year seems to teach us that summits do not produce very much in the way of progress or results, and each year we hear the usual clamor for a summit after Congress fails to do its job and its statutory duty. It is a shoddy, Perils of Pauline performance, in which Congress ties itself up and throws itself onto the train tracks, hollering for a gallant rescue by the White House.

And this year is no different, except this is the first year since I have been on the committee that we did not even make a pretense of producing a budget. There was a time when the president sent us a budget, we examined it in detail, and produced our own budget. Then Congress became a political coroner and we got into the habit of just automatically saying whatever the president sent up was "dead on arrival." With the passage of time, it became an accepted fact that whatever the president sent up here was not to be taken seriously. It was perhaps not so great a step from holding the president's budget in contempt to holding our own in contempt.

What we produced in committee this year was a sham—a mere formality so the taxers and spenders can get on with congressional business as usual in an election year. We produced something here in committee and then decided we even lacked the willpower or the time or the interest to take it up on the floor. Therefore, an agreement was made that we would not debate it, not have a roll call vote on it, but just send it to the other body for the express purpose of fulfilling a legal requirement so appropriators could write their bills.

It is fairly clear to me that the reason we acted so in this case, and perhaps in past years, is because a budget summit was the order of the day. Literally, we have a handful of Senators, a handful of Representatives, and a select number of the President's staff sitting around deciding the direction this country will take. Indeed,

they are functioning with levels of secrecy and security the CIA must envy.

With more than 99% of the interested parties excluded, it is little wonder budget summits have a bad track record. Most would agree a review of recent summits offers little in the way of either consolation or reassurance. The fiscal year 1991 budget will mark the fifth time in nine years when the decisions are made behind closed doors in "high-level negotiations." Not surprisingly, the negotiated packages in 1982, 1984, 1985, 1987, and 1989 all fell dismally short of their deficit reduction goals. The years directly following the budget summit agreements—perhaps the best indicator of the quality of the substance of these agreements—tell a chilling tale.

The FY 1982 deficit was $128 billion. That year, the summiteers came up with a three-year plan that comprised $98 billion in tax increases and $31 billion in spending reductions. Their FY 1983 deficit target was $104 billion. In what should have been a very instructive—albeit expensive—lesson, the FY 1983 deficit weighed in at $208 billion . . . literally twice the summit target. Well this sobered us up, but only for awhile. In FY 1983 there was no budget summit and the deficit dropped $23 billion when spending was held to half the rate of revenue growth for that year.60-62 -Date: 8/8/90 -Subformat:

Then, like an alcoholic falling off the wagon, we were back to our "high-level negotiations" in FY 1984. With a deficit of $185 billion, all the players got together and came up with another three-year plan. This one called for $49 billion in tax increases and $110 billion in spending reductions. The stated FY 1985 deficit target was $181 billion . . . a somewhat modest $4 billion decrease from the FY 1984 deficit total considering the draconian nature of the package. As usual, however, when the dust settled, the American people had been hit with all of the tax increases while little or none of the agreed-upon spending reductions took place. Not unsurprisingly in this context, the FY 1985 deficit hit $212 billion.

In FY 1985, we tried negotiating straightforward spending reductions. In this case, we were supposed to reduce spending in defense, Social Security, and other domestic programs to achieve $52 billion in deficit reduction. To make a long, sad story short we ended up with a FY 1986 deficit of $221 billion!

With that cold wind of reality, sanity again briefly set in among this nation's legislators. In FY 1986 there was no summit. There was no "negotiated" agreement. Instead, we all got together and did our jobs and the FY 1987 budget deficit fell an unbelievable $71.5 billion. There is no mystery to what occurred . . . we simply held the growth rate of spending down to 1.4% that year.

In FY 1987, the stock market crash upset our hard-won independence. Such dislocation in the financial markets convinced some people around here that we needed to have another one of those nifty budget summits—despite the fact that the $23 billion in deficit reduction required that year to meet the Gramm-Rudman target was less than one-third of what we achieved without the benefit of a summit the preceding year. Following a well-established (if undistinguished) record, the summit agreement came up with a two-year plan which resulted in a $5 billion increase in the

FY 1988 deficit and a FY 1989 deficit that was $11 billion over the summit target.

These are a lot of numbers. Let me summarize so we can see what really happens. On average, a summit agreement has specified $26 billion in deficit reduction. Nevertheless, the deficit increased from the year before in every year in which we had a budget agreement. On average, the deficit was $53 billion higher than required under the agreement. In contrast, when the budget process was allowed to work without a summit agreement, the deficit declined by an average of $47 billion. "Experience," Shakespeare tells us, "is a jewel, and it had need be so, for it is often purchased at an infinite rate." Well Mr. President, the American taxpayer has paid and paid and paid for the experience that has failed to teach the Congress anything at all: summits raise taxes and higher taxes mean higher deficits.

Today, of course, we are faced with myriad deficit estimates ranging from $150 billion to $250 billion depending upon the budgetary treatment of the RTC. And what is Congress' answer to a fiscal crisis of this magnitude? Another budget summit!

What is happening here is not complex. It does not require advanced degrees or great wisdom to interpret. Quite simply, we are spending every penny and more of these summit-negotiated tax increases. The numbers are not in question and they are undeniable. The whopping tax increases that inevitably emerge from a budget summit are not helping put out the fiscal fire and they are not bringing the budget closer into balance; rather, they are gasoline poured into the deficit furnace.

This is food for thought, not just for members of the Budget Committee, but for all Senators. What I do believe members of the Budget Committee need to consider is the precedent we are setting, through budget summits, for preempting the Committees of Congress and denying the American people the right to participate through their elected representatives.

WILLIAM L. ARMSTRONG.

ADDITIONAL VIEWS OF MR. SYMMS

AMENDMENT TO TAKE HIGHWAY AND AVIATION TRUST FUNDS OFF BUDGET

Mr. Chairman, I regret that I must dissent from the majority's decision to remove Social Security from the Gramm-Rudman-Hollings deficit calculations but not the Highway and Aviation trust funds. The two are characteristically alike in that they both have specific taxes targeted for specific expenditures. Yet, the two are now to be treated differently. My amendment would have removed the Highway Trust Fund and the Aviation Trust Fund from the Gramm-Rudman-Hollings process, in the same manner as others have advocated for Social Security.

My distinguished colleagues who have co-sponsored similar legislation in the past understand the arguments I will be making. Essentially the idea is that we should have separate management and accounting for certain separate fiscal entities.

It is argued that we must have a "unified budget" in order to contain all of the activities of the Federal government; that the very essence of a budget is that it should reflect all of the processes of the government. I think this general formula is flawed. Rather than helping Congress exercise greater control over fiscal policy, the unified budget concept makes it more difficult by lumping everything into one big pot. America may be a melting pot of peoples, but it should not have a melting pot for a budget. Why? Because, things get mixed up in a so-called unified budget, a mess in which permanent surpluses in the Trust Fund accounts are used to conceal permanent deficits in the Federal Fund accounts.

I believe it is time to change the way we account for the fiscal activity of the Federal government. With the amendment I am offering here, I propose that we start by splitting the Highway Trust Fund and the Aviation Trust Fund out from the unified budget for deficit calculation purposes contained in Gramm-Rudman-Hollings.

Agencies or activities that may be under the general umbrella of the Federal government, but which are self-financing by means of dedicated taxes or user fees, dedicated to providing a specific service or public function, and are always in a fiscal surplus position, should be accounted for independently of the central Federal functions.

One of the principal arguments against this plan to divide the Federal budget into smaller, more manageable pieces, is the argument that everything should be consolidated. But, I submit that we should not agree with this argument because of past experience with it. For example, in 1988 the Federal government had 118 trust funds with surplus balances in their accounts, not including social security. All 118 of these funds were on-budget, meaning the cumulative annual fiscal surplus estimate from these funds was included

in a unified budget to be balanced with other federal revenues and expenditures. The actual cumulative surplus of these on-budget trust funds in fiscal 1988 was $53 billion dollars. To be fair, most of this unspent balances was committed to out-year spending projections. Likewise, the surplus for Social Security in 1988 was near $21 billion, was supposed to be spent on out year projections as well. This information comes from a report by the General Accounting Office entitled "Trust Funds and the Federal Budget." What conclusions am I making? That these surpluses, some of which are monetarily substantial and are dedicated to current year and out year expenditures, should not be used to cover up expenditures made elsewhere in the federal budget.

According to the Congressional Budget Office, in fiscal 1991, the Highway and Aviation trust funds are expected to generate a combined surplus of approximately $1.6 billion. From CBO figues, this combined surplus is projected to decline through 1995, drawing on the combined unspent surplus balance beginning in 1994. Because the 5-year projected loss of revenue to the unified budget is only $1.3 billion dollars, I do not propose to change the Gramm-Rudman-Hollings targets with my amendment.

Clearly, a unified budget has led to a misappropriation of funds in the past. I will not attempt here today to take all trust funds out of the Gramm-Rudman-Hollings deficit targets, although that might well be the right thing to do. I propose removing just two—the Highway Trust Fund and the Airport and Airways Trust Fund.

To the point, agencies or activities that may be under the general umbrella of the Federal government, but which are self-financing by means of dedicated taxes or user fees, dedicated to providing a specific service or public function, and are always in a fiscal surplus position, should be accounted for independently of the central Federal functions.

As I said at the beginning of my remarks, Mr. Chairman, a similar amendment had been adopted in a previous year by the Senate by a recorded vote of 85 to 8. I would ask my colleagues today to stand by this precedent and vote for my amendment.

STEVE D. SYMMS.

X. CHANGES IN EXISTING LAW

Pursuant to paragraph 12 of rule XXVI of the Standing Rules of the Senate, this section displays changes to existing law made by the Act. Existing law that the Act would strike appears in strike-out type, new material appears in *italic* type, and existing law to which the Act makes no change appears in roman type.

CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

SECTION 3(6)

(6) The term "deficit" means, with respect to any fiscal year, the amount by which total budget outlays for such fiscal year exceed total revenues for such fiscal year. [In calculating the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and in calculating the excess deficit for purposes of sections 251 and 252 of such Act (notwithstanding section 710(a) of the Social Security Act), for any fiscal year, the receipts of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for such fiscal year and the taxes payable under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 during such fiscal year shall be included in total revenues for such fiscal year, and the disbursements of each such Trust Fund for such fiscal year shall be included in total budget outlays for such fiscal year.] Notwithstanding any other provision of law except to the extent provided by section 710(a) of the Social Security Act, the receipts, revenues, disbursements, budget authority, and outlays of each off-budget Federal entity for a fiscal year shall be included in total budget authority, total budget outlays, and total revenues and the amounts of budget authority and outlays set forth set forth for each major functional category, for such fiscal year. Amounts paid by the Federal Financing Bank for the purchase of loans made or guaranteed by a department, agency, or instrumentality of the Government of the United States shall be treated as outlays of such department, agency, or instrumentality.[68]

BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

SECTION 275(b)

(b) EXPIRATION.—

(1) Part C of this title, and the other provisions contained in or added by this title which are listed in paragraph (2), shall expire September 30, 1993.

(2) The other provisions referred to in paragraph (1) are as follows:

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[68] Congressional Budget Act, § 3(6), 2 U.S.C. § 622(6) (1988).

(A) section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 [and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joing resolution]];

(B) sections 301(i) and 304(b) of the Congressional Budget Act of 1974 and the portion of section 311(a) of such Act which begins with "or, in the Senate" and ends with "paragraph (2) of such subsection)" (as added by section 201(b) of this joint resolution);

(C) sections 1105(f) and 1106(c) of title 31, United States Code (as added by sections 241(b) and 242(b) of this joint resolution); and

(D) section 271(b) of this joint resolution.[69]

42 U.S.C. § 911

(Social Security Act)

(section 710(a))

§ 911. Budgetary treatment of trust fund operations

(a) Federal Old-Age and Survivors Insurance Trust Fund; Federal Disability Insurance Trust Fund

The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, and the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of Title 26, shall not be included in the *budget deficit or any other* totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.[70]

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[69] Gramm-Rudman-Hollings, § 275(b), 2 U.S.C. § 901 note (1988).

[70] 42 U.S.C. § 911(a)(1988).

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